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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,769	07/28/2003	Suresh Marisetty	884.205US2	5779

21186 7590 04/21/2008

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EXAMINER	
CHU, GABRIEL L	

ART UNIT	PAPER NUMBER
2114	

MAIL DATE	DELIVERY MODE
04/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/628,769	MARISETTY ET AL.	
	Examiner	Art Unit	
	Gabriel L. Chu	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *46-88* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *46-88* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20030728*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 72-77 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Referring to claim 72 and subsequently claims 73-77, "the first of the processing elements" has no antecedent basis. It is understood to refer to "a first..."

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 64-66, 86-88 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Referring to claims 64-66, 86-88, claims are directed to a "medium bearing instructions". The specification and claims provide no indication that such a medium is statutory. To overcome this rejection, Applicant must amend the claims to indicate that it is a storage medium storing the instructions.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. **Claims 46-88 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-52 of U.S. Patent No. 6622260.** Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims, and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

6. **Claims 46-88 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6675324.** Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims, and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

7. **Claims 72, 73, 77 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent No. 7216252.** Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims,

and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

8. **Claims 46-88 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No. 10/628726.** Although the conflicting claims are not identical, they are not patentably distinct from each other. Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims, and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render

the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. **Claims 46-71 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 10/672697.** Although the conflicting claims are not identical, they are not patentably distinct from each other. Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims, and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. **Claims 46-71 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 10/672697.** Although the conflicting claims are not identical, they are not patentably distinct from each other. Although the conflicting claims are not identical, they are not patentably distinct from each other. The referenced claims of the instant application are anticipated by the claims of the patent/provisional application in that the claims of the parent contain all of the limitations of the referenced claims of the instant application. The referenced claims of the instant application therefore are not patently distinct from the other claims, and as such are unpatentable for obvious-type double patenting. (In re Goodman (CAFC) 29 USPQ2d 2010). While limitations of the claims of the patent/provisional application may be broader than the claims of the instant application, the language and the disclosure of patent/provisional application indicate that the limitation of claims of the instant application are merely a subset of patent/provisional application. These differences are not sufficient to render the claims patentably distinct. Georgia-Pacific Corp. v. United States Gympsum Co., 195 F.3d 1322, 1325, 52 USPQ2d 1590, 1593 (Fed. Cir. 1999).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

11. Pending correction for 112 and 101 rejections above and terminal disclaimer for double patenting rejections above, claims would be allowable for the following reasons:

Referring to claims 46-56, the prior art does not teach or fairly suggest a first

layer of firmware stored in the non-volatile memory to execute a first abstraction layer and including a first error-handling routine to correct at least some errors in a second category; a second layer of firmware stored in the non-volatile memory to execute a second abstraction layer above the first abstraction layer, the second abstraction layer including a second error-handling routine, communicating with the first error-handling routine, to correct other errors in the second category.

Referring to claims 57-66, the prior art does not teach or fairly suggest if the error cannot be corrected within the first level of firmware, attempting to correct the error in a second level of firmware that is adapted to execute a second abstraction !ayer interfaced to the first level of firmware; if the error can be corrected within either level of firmware, resuming the process.

Referring to claims 67-71, the prior art does not teach or fairly suggest if the error has a first category, attempting to correct the error in hardware associated with the processor, without interrupting the processor; if the error has a second category, attempting to correct the error in firmware associated with the processor, without terminating the current process; if the error has a third category, attempting to correct the error in operating system software associated with the processor.

Referring to claims 72-77, the prior art does not teach or fairly suggest a firmware error handler stored in the non-volatile memory and responsive to the machine check abort signal to cause the first of the processing elements to attempt to correct the error in any of the processing elements.

Referring to claims 78-88, the prior art does not teach or fairly suggest if the error

is a global error, communicating the machine check abort signal to a monarch processing element of the plurality of processing elements, the monarch processing element being different from the one processing element in which the error occurred; attempting to correct the error by an error handler within the monarch processor.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Election/Restrictions

12. Referring to Examiner's telephonic restriction requirement, it is withdrawn in view of a closer inspection of claims 72 and 74 which link the otherwise disparate inventive concepts.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See notice of references cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel L. Chu whose telephone number is (571) 272-3656. The examiner can normally be reached on weekdays between 8:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gabriel L. Chu/
Primary Examiner
Art Unit 2114

gc